

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TIMOTHY P. KEARNEY, JR.,

Plaintiff,

v.

THE MAY DEPARTMENT STORES
COMPANY a/k/a FILENE'S, GREGORY
JACKSON, ERIC VAN DER VALK,
AND SHAWN TUBMAN,

Defendants.

CIVIL ACTION NO. 05-10095-RWZ

DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

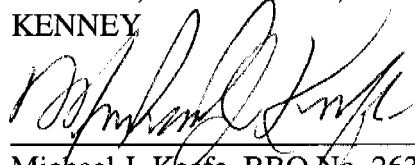
**DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

Plaintiff's Motion for Summary Judgment and concomitant opposition to defendants' motion for a short extension of time to respond to plaintiff's Complaint is now moot because on April 28, 2005, the Court extended the time for the defendants to file their responsive pleading up to and including May 15, 2005. In any event, the Motion is incorrectly styled as a Motion for Summary Judgment. The case is at its beginning stages and no discovery has been completed. Thus, a Motion for Summary Judgment is premature. The Motion is actually one for Default Judgment. However, such a Motion is also inappropriate and moot because the defendants requested additional time to plead, and the Court granted said motion (See Exhibit A).

For these reasons, plaintiff's Motion should be denied.

Respectfully submitted,

MARTIN, MAGNUSON, McCARTHY &
KENNEY

A handwritten signature in black ink, appearing to read "Michael J. Keefe", is written over a horizontal line.

Michael J. Keefe, BBO No. 263751

Attorney for Defendants,

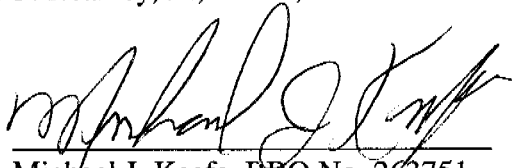
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed first class, postage prepaid to Timothy P. Kearney, Jr., Pro Se, 100 Everett Street, Arlington, MA 02474, this 28th day of April, 2005.

A handwritten signature in black ink, appearing to read "Michael J. Keefe", is written over a horizontal line.

Michael J. Keefe, BBO No. 263751
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Michael J. Keefe

From: ECFnotice@mad.uscourts.gov
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United States District Court
District of Massachusetts

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Judge Rya W. Zobel : Electronic ORDER entered granting [6] Motion for Extension of Time to Answer re [2] Complaint May Department Stores answer due 5/15/2005; Gregory Jackson answer due 5/15/2005; Eric Van Der Valk answer due 5/15/2005; Shawn Tubman answer due 5/15/2005. (Johnson, Jay)

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